FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL APPEAL NO.186 OF 2006

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr.G.V.Pandya for the appellant.

Mrs.G.P.Mulekar APP for the State.

Coram : R.S.Mohite,J

Date : 20.02.2006.

PC

1. This appeal is filed against concurrent orders of conviction under Section 138 of N.I.Act. It was sought to be argued that the complainant had not discharged his burden of proving that the cheque was for valid consideration. In fact, there is a presumption as regards the consideration which has to be rebutted by the accused. It was the defence of the accused that the amount was not given for repayment of the loan for settlement of account as alleged by the complainant. It was the defendants' case that the accused

was running a chit fund and a blank cheque was given as a security towards the chit fund business. The accused himself has not stepped into the witness box in the trial Court to depose that he was running chit fund business. DW-2 admits existence of loan of Rs.1,22,000/-. It was the complainant's case that on 22.1.1999 final account was taken and the cheque of Rs.1,50,000/- was issued to settle this loan. There was concurrent finding of two lower Courts. Even otherwise, the proper remedy was to file a revision. In the circumstances, appeal stands rejected.

(R.S.Mohite,J)